



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 2360-00
18 July 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 8 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request. Board regulations state that personal appearances before the Board are not granted as a right, but only when the Board determines that such an appearance will serve a useful purpose. In your case, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

Docket No. 2360-00

In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

8 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION ICG [REDACTED]
[REDACTED]

Ref: (a) BCNR memo of 18 Apr 00
(b) DFAS-CL ltr FRCAB:03G [REDACTED] dtd 22 Nov 99
(c) DoD Financial Management Regulation (Vol 7B)

Encl: (1) Excerpt from the Spring edition of "Shift Colors"

1. Per reference (a), recommend BCNR not correct [REDACTED]
[REDACTED]'s record to reflect that he enrolled in the
Survivor Benefit Plan (SBP) former spouse coverage category,
with an effective date of 1 November 1997.

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on
1 November 1997. He declined SBP spouse coverage at that
time.

b. Per reference (b), [REDACTED] had an opportunity
to enroll his former spouse during the most recent SBP Open
Season between 1 March 1999 and 29 February 2000. The
Defense Finance and Accounting Service-Cleveland (DFAS-CL)
advised him in writing that since his former spouse had
remarried prior to age 55, no monthly SBP premiums would be
deducted, however, he was advised that he would be required
to pay the buy-in premiums to enroll her. He did not
exercise this option.

3. Information on SBP has been widely publicized through
"Shift Colors" (a quarterly newsletter mailed to all
retirees), based on the address provided to the DFAS-CL by
the retiree. All retirees that keep their addresses current

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

with DFAS-CL begin receiving this publication within months after retirement. Enclosure (1) contains an article that appeared in "Shift Colors" after CAPT Gauthier's marriage.

M. P. Wardlaw

M. P. WARDLAW

Head, Navy Retired Activities
Branch (PERS-622)



Shift Colors

The Newsletter for Navy Retirees

Volume 44 Issue #1

Navy Personnel Command

Spring 1999

SBP ANNOUNCES OPEN ENROLLMENT

Congress recently passed Public Law 105-261, section 642, authorizing an open enrollment period for the Survivor Benefit Plan (SBP). This open enrollment period began March 1, 1999 and will continue until February 29, 2000. It offers retirees (including Reserve components) an opportunity to enroll or change existing SBP/Supplemental Survivor Benefit Plan (SSBP) elections.

WHAT IS SBP: Retired pay stops when a military retiree dies. SBP is a voluntary program in which a military retiree may elect to receive a reduced retired/retainer pay to provide an annuity to an eligible survivor(s).

ELIGIBLE MEMBER: To be eligible for this program, one must be a member or former member of a uniformed service who, on February 28, 1999: (1) was not already participating to the fullest possible extent in both SBP and SSBP; (2) was previously eligible to elect SBP and/or SSBP coverage at a greater level, and; (3) is entitled to retired pay (or would be entitled except for the fact of being under 60 years of age).

An election by an eligible member shall be for a *standard annuity* even if that member previously elected a Reserve-component annuity.

Any member who was previously a participant in SBP, but elected to terminate their participation, is not eligible to re-enroll during this open enrollment period.

COVERAGE LIMITATIONS: Members may designate only beneficiaries who satisfy the prescribed legal criteria for the category of coverage as of the date the election is filed. Members may not elect to cover a beneficiary or a level of coverage that could not be in effect as the result of an election the member could have previously made. For example, a member who was married upon retirement may not elect insurable interest coverage.

Election for spouse or former spouse coverage may include SSBP coverage. No election may be made for a beneficiary other than the one currently protected under SBP, except for the addition of children to spouse or former spouse coverage.

VOLUNTARY ELECTIONS: An election under this program is voluntary on the part of the member and is not subject to an agreement with the member's spouse or former spouse. No court order may require a member to make an election during this open enrollment period.

MAKING AN ELECTION: Members must complete a Survivor Benefit Plan (SBP) Open Enrollment Election (DD Form 2656). Election must be submitted to the Service designated agent indicated in the instruction portion of the DD form 2656-3.

EFFECTIVE DATE OF ELECTIONS: Elections shall be effective the first day of the first calendar month following the date the election is received.

DATE RECEIVED: The date an election is received shall be the date the agent first logs your DD-2653 form into the appropriate data system. However, if:

- (1) the log-date is prejudicial to payment of an annuity to the survivor (i.e., the log-in date would preclude payment of an annuity); and
- (2) the survivor has proof of an earlier mailing date, the mailing date shall be deemed to be the date received. Elections received before March 1, 1999 shall be deemed as having been received on February 28, 1999. Elections received after February 29, 2000, shall be deemed as having been received on the date of

Continued on page 4

SBP Open Enrollment continued from cover page.

mailing if the postmark is a date within the open enrollment period.

EFFECT OF DEATH WITHIN TWO YEARS: If a member dies within two years of the effective date of the election, the election is void.

All open enrollment premiums will be refunded in a lump sum payment to the person who would have been the beneficiary had the member lived long enough for the election to actually take effect.

OPEN ENROLLMENT

PREMIUMS: Members must pay open enrollment premiums for elected coverage based on the number of years that have elapsed since the member's first opportunity to participate in SBP. For most members, this will be the date of retirement. However, if a member was not married at the time of retirement, but married later, it would be the first anniversary of the marriage. If a member was married at the time of retirement and later divorced and then remarried, the date of first opportunity to participate will be the date of retirement, regardless of how the following years may have been divided between marriage and divorced status. Pages 8 and 9 provide tables and examples that prescribe the premiums applicable to open enrollment elections.

There are two types of enrollment premiums. The first type will be collected each month beginning with the effective date of the election. These premiums shall be collected in the same manner as if the member elected to participate in

the program at the earliest opportunity.

The second premium type is a one-time buy-in premium. This premium amount is due and payable in a one-time, lump sum payment at the time a member files an election, although a portion of this amount may be deferred and deducted from retired pay in 24 equal monthly installments. The amount deferred may not exceed the total net retired pay the member expects to receive over this period. Regardless of any amount deferred, the member is considered obligated for payment of the full lump sum premium at the time of election.

If the member's net retired pay is reduced after deductions begin, the member shall make an immediate payment equal to the anticipated shortfall in reductions from retired pay expected through the end of the original 24 month period. Lump sum buy-in premium payments shall be credited to the Department of

Defense Military Retirement Fund. No other obligation shall be impacted by these one-time buy-in premiums.

Submitted by
Dennis Mills

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